

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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|--------------------------------|--|-----------------|
| | 1. COCP No.1003 of 2017 (O&M) | |
| Sukhminder Singh and others | | ... Petitioners |
| | Vs. | |
| Dr. G. Vajralingam and another | | ... Respondents |
| | 2. COCP No.1785 of 2017 | |
| Jarnail Singh | | ... Petitioner |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 3. COCP No.2080 of 2017 | |
| Darshan Kumar and others | | ... Petitioners |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 4. COCP No.2081 of 2017 | |
| Karanbir Singh | | ... Petitioner |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 5. COCP No.2082 of 2017 | |
| Kanwaljit Verma and another | | ... Petitioners |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 6. COCP No.2639 of 2017 (O&M) | |
| Balwinder Singh and others | | ... Petitioners |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 7. COCP No.2641 of 2017 (O&M) | |
| Sohan Lal and another | | ... Petitioners |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 8. COCP No.2655 of 2017 (O&M) | |
| Baljit Singh and others | | ... Petitioners |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |
| | 9. COCP No.2656 of 2017 (O&M) | |
| Jasbir Singh and others | | ... Petitioners |
| | Vs. | |
| Krishan Kumar and another | | ... Respondents |

- 10. COCP No.2640 of 2017 (O&M)**
Lal Singh and others ... Petitioners
Vs.
Krishan Kumar and another ... Respondents
- 11. COCP No.2875 of 2017 (O&M)**
Parkash Ram and another ... Petitioners
Vs.
Shri Krishan Kumar and another ... Respondents
- 12. COCP No.3333 of 2017**
Lakhwinder Singh ... Petitioner
Vs.
Shri Paramjit Singh ... Respondent
- 13. COCP No.2803 of 2017 (O&M)**
Amarjit Kaur and another ... Petitioners
Vs.
Krishan Kumar and another ... Respondents
- 14. COCP No.3843 of 2017**
Lakhwinder Singh ... Petitioner
Vs.
Krishan Kumar and another ... Respondents
- 15. COCP No.3752 of 2017**
Vijay Kumar Bhatti ... Petitioner
Vs.
Krishan Kumar and another ... Respondents
- 16. COCP No.1767 of 2018**
Bhupinder Singh ... Petitioner
Vs.
Krishan Kumar and another ... Respondents
- 17. COCP No.1706 of 2018**
Meenakshi Chopra ... Petitioner
Vs.
Shri Paramjit Singh ... Respondent
- 18. COCP No.1707 of 2018**
Sukhdev Sharma and another ... Petitioners
Vs.
Shri Krishan Kumar and another ... Respondents

19. COCP No.1727 of 2018

Angrej Singh Gill and others ... Petitioners

Vs.

Shri Paramjit Singh ... Respondent

20. COCP No.1221 of 2017

Baljit Singh and others ... Petitioners

Vs.

G. Vajralingam and another ... Respondents

Date of Decision:11.03.2019

CORAM : HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Gaurav Sharma, Advocate,
Mr. Sukhdev Kamboj, Advocate and
Mr. Sunny Singla, Advocate
for the petitioner (s).

Ms. Sudeepti Sharma, Addl. A.G. Punjab with
Mr. Aditya Sharda, A.A.G. Punjab.

NIRMALJIT KAUR, J. (Oral)

All the aforementioned contempt petitions are being disposed of by this common order being identical.

The contempt petitions have arisen out of a common order dated 10.11.2016 passed by the learned Single Bench in CWP No.26621 of 2013 and other connected writ petitions. Thereafter, the Division Bench disposed of LPA No.677 of 2017 alongwith other connected LPAs challenging the order dated 10.11.2016 whereby learned Single Bench had directed the respondent to re-consider the case of the petitioners for promotion to the post of Principal against 30% reserved quota for promotion amongst Headmasters/Mistresses, which is lying vacant, with the following directions:

“Having held so, we find some merit in the appellants' contention that the respondents cannot supersede their seniors in the cadre of

Headmasters. But that is not the relief sought by the respondents either before the learned Single Judge or in these appeals. The respondents were concededly promoted on regular basis on or after 7.10.2011. Their seniors, if still in service, must have been promoted as Headmasters/Headmistresses before 07.10.2011. In that event, such seniors have completed 7 years' service/experience even if they had not officiated or worked on current duty charge basis as Headmasters/Headmistresses. Thus, such seniors too are eligible for promotion as Principals. That being the state of affairs, there is no legal impediment against promoting the seniors as well as the respondents within their 30% quota strictly in accordance with seniority and merit or any other valid criteria as per Rules. Consequently, the appeals are disposed of with a direction to the appellants that let the needful be done at the earliest but not later than three months from the date of receiving a certified copy of this order.”

Thereafter, the order passed in the aforesaid LPAs was modified vide order dated 31.08.2018 in the review application to the following extent:

“It is accordingly directed that as soon as 22 seniors complete seven year experience in October, 2018, let them along with the writ petitioners who too as per their seniority and turn will become entitled to be considered and promoted before 15.11.2018 subject to their otherwise eligibility and suitability in their respective quota, as well as availability of vacancies.

The same principle shall be followed in future as and when the senior (s) acquire eligibility and let them be considered within one month of acquiring the eligibility.”

This Court on the last date of hearing on 19.12.2018, after hearing the learned counsel for the parties observed as under:

“In pursuance of the last order 17.10.2018, learned counsel for the respondents has placed on record a speaking order dated 27.11.2018 stating therein that there are large number of seniors who need to be promoted before the promotion of the petitioners. Admittedly, even the seniors have not been promoted till date. It is

further stated in the speaking order that new rules for promotion have been notified on 07.06.2018 and the position has further changed. The post for promotion to P.E.S. (School and Inspection) Group-A cadre have been reduced to 50% and therefore, the proportion of posts for promotion from Lecturer and Head Masters has been changed to 83% and 11% respectively. It is further stated by the learned counsel for the respondents on instructions from Ms. Sushma Sharma, Asst. DGSE, Punjab, that no vacancies as on date are available in view of the amended rules.

It is obvious that the said speaking order and the statement made before this Court has been made without taking the law into account. Admittedly the vacancies arise in the year, 2016 and the rules that have to be applied on the time when the said vacancies arose. Thus, it is not understood as to how this position can change after coming of the new rules and the same be applied with retrospective effect. The respondents are accordingly, directed to reconsider the entire matter in the light of the above observation and pass appropriate orders in terms of the order dated 31.08.2018, wherein a direction was specifically issued that the petitioners be considered as per their seniority and therein for promotion subject to other being eligible and suitable in their respective quota as well as availability of the vacancies.

Adjourned to 11.03.2019.

Needful be done by the next date of hearing.

The needful be not done by the next date finally which the respondent No.1 shall come present on the next date.”

Today, the respondents have placed on record short reply by way of affidavit of the Director General School Education, Department of School Education, Punjab, stating therein that in compliance of the orders passed by this Court, a meeting of DPC was held to consider the promotions as per Rules, 2004 against the available vacancies as on 6.6.2018 i.e. the vacancies which arose prior to the notification of new rules. The DPC considered the matter qua the petitioners in COCP No.1003 of 2017 and other eligible candidates.

In view of the above, the order in question has been complied to the said extent but the result of the DPC cannot be declared in view of the interim orders dated 28.11.2018 and 10.12.2018 passed by the Division Bench in CWP No.30049 of 2018 wherein the Court while issuing notice motion had stayed the result of the DPC.

It is further stated by the learned State counsel on instructions from Mr. Karamjit Singh, Assistant Director o/o Director General School Education, Punjab that in pursuance of the order passed in the review, the cases of the petitioners have been considered as per their seniority and names of those who were not found eligible were not forwarded for DPC. Hence, speaking order shall be passed qua the petitioners including those petitioners who are left out from the DPC.

Thus, this Court is of the opinion that order in question has been duly complied with. Contempt petitions are, accordingly, dismissed. Rule is discharged. However, it goes without saying that the matter shall be taken to its logical conclusion in case result of the DPC is upheld by the coordinate Bench.

As the contempt petitions stand dismissed, the miscellaneous applications being rendered infructuous are disposed of as such.

(NIRMALJIT KAUR)
JUDGE

11.03.2019
rajeev

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No